STATE OF MICHIGAN

COURT OF APPEALS

SHERYL L. ADAMS,

Plaintiff-Appellee,

v

JEFFREY M. ADAMS,

Defendant-Appellant.

UNPUBLISHED
October 27, 2000

No. 219376
Tuscola Circuit Court
Family Division
LC No. 98-016785-DM

Before: Gribbs, P.J., and Neff and O'Connell, JJ.

PER CURIAM.

Defendant appeals as of right from the property division portion of the parties' judgment of divorce. We affirm.

On appeal, defendant argues that the trial court erred in making findings of fact that a legal settlement received during the marriage was a marital asset because it did not come to either party by reason of the marriage. Defendant argues that because the settlement was not a marital asset and it was used to purchase the certain real estate, the land was also not a marital asset for distribution purposes. We disagree. This Court reviews a trial court's findings of fact in a divorce proceeding for clear error. *Sparks v Sparks*, 440 Mich 141, 151; 485 NW2d 893 (1992). A finding of fact is clearly erroneous if, after review of the entire record, the reviewing court is left with the definite and firm conviction that a mistake has been made. *Draggoo v Draggoo*, 223 Mich App 415, 429; 566 NW2d 642 (1997).

In determining the property rights of parties in a divorce proceeding, a court may apportion all property that has "come to either party by reason of the marriage … ." MCL 552.19; MSA 25.99, *Byington v Byington*, 224 Mich App 103, 110; 568 NW2d 141 (1997). The property subject to apportionment is referred to as marital property, which comprises the marital estate. *Id*. "Assets earned by a spouse during the marriage are properly considered part of the marital estate." *Id.*

The trial court did not clearly err in finding that the real property was subject to apportionment. MCL 552.19; MSA 25.99. According to testimony, the parties intended to use the settlement as a marital asset to purchase the land for the benefit of the family and, in fact, used it for that particular

purpose. Plaintiff had several conversations with defendant about purchasing the land from defendant's family and about building a home on the land. The parties told defendant's family that they wanted to purchase the land. Defendant's family agreed to sell the land to the parties for $40,000 and executed a warranty deed to the parties as tenants by the entireties, which was placed in escrow. Plaintiff visited the land on several occasions, planted trees on the land, and attended township meetings to help resolve a zoning problem with the land. When defendant received the settlement, he forwarded $40,000 for the land purchase. The remainder of the money was deposited in the parties' joint accounts. The next day, the deed was recorded, granting the land to the parties as tenants by the entireties. This was more than adequate proof that the settlement actually merged into a marital asset. The land was properly considered in apportioning the marital estate. See generally *Polate v Polate*, 331 Mich 652; 50 NW2d 190 (1951); *Darwish v Darwish*, 100 Mich App 758, 772, 774; 300 NW2d 399 (1980).

Defendant also argues that even if the land was a marital asset, the apportionment of the land was inequitable. We disagree. Property disposition rulings will be affirmed unless this Court is left with the firm conviction that the distribution was inequitable. *Sparks*, *supra* at 152. The goal in apportioning a marital estate is to reach an equitable division in light of all the circumstances. *Welling v Welling*, 233 Mich App 708, 710; 592 NW2d 822 (1999). In dividing the marital estate, each spouse need not receive a mathematically equal share. *Byington*, *supra* at 114.

After reviewing the record below in this case, we are not left with the firm conviction that the apportionment of the land was inequitable. Defendant contends that he should have been awarded ninety percent of the property's value because the land came from his family at a large discount and because it was purchased with the proceeds of his legal settlement.[1] However, the parties agreed that they would use the settlement to purchase the land for the benefit of the family, they used it for that particular purpose. The proofs were sufficient to establish that both parties had an interest in the land. Because both parties had an interest in the land, the court correctly apportioned the land in the manner it found equitable. The court actually apportioned more of the property to defendant as a gift from his family, resulting in defendant's award of 64.2 percent of the appraised value of the property. Therefore, reapportionment of the land is unnecessary.

Affirmed.

/s/ Roman S. Gribbs
/s/ Janet T. Neff
/s/ Peter D. O'Connell

[1] The court accepted the uncontested testimony of an appraiser that the market value of the property was $88,000 and awarded defendant $56,500 of the appraised value, equal to 64.2 percent.